

IC 31-35

**ARTICLE 35. JUVENILE LAW: TERMINATION OF
PARENT-CHILD RELATIONSHIP**

IC 31-35-1

**Chapter 1. Voluntary Termination of Parent-Child Relationship
by Parents**

IC 31-35-1-1

Sec. 1. This chapter applies to the voluntary termination of the parent-child relationship by parents.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-2

Sec. 2. Proceedings under this chapter are governed by the procedures prescribed by:

- (1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;
- (2) IC 31-34; and
- (3) IC 31-37;

but are distinct from proceedings under IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-3

Sec. 3. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition filed under this chapter for the voluntary termination of the parent-child relationship.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-4

Sec. 4. (a) If requested by the parents:

- (1) the county office of family and children; or
- (2) a licensed child placing agency;

may sign and file a verified petition with the juvenile or probate court for the voluntary termination of the parent-child relationship.

(b) The petition must:

- (1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege that:

- (A) the parents are the child's natural or adoptive parents;
- (B) the parents, including the alleged or adjudicated father if the child was born out of wedlock:
 - (i) knowingly and voluntarily consent to the termination of the parent-child relationship; or
 - (ii) are not required to consent to the termination of the parent-child relationship under section 6(b) of this chapter;
- (C) termination is in the child's best interest; and
- (D) the petitioner has developed a satisfactory plan of care and treatment for the child.

As added by P.L.1-1997, SEC.18. Amended by P.L.200-1999, SEC.25.

IC 31-35-1-4.5

Sec. 4.5. The putative father's consent to the termination of the parent-child relationship is irrevocably implied without further court action if the father:

(1) fails to file a paternity action under IC 31-14 or in a court located in another state that is competent to obtain jurisdiction over the paternity action, not more than thirty (30) days after receiving actual notice under IC 31-19-3 of the mother's intent to proceed with an adoptive placement of the child, regardless of whether:

(A) the child is born before or after the expiration of the thirty (30) day period; or

(B) a petition for adoption or for the termination of the parent-child relationship is filed; or

(2) files a paternity action:

(A) under IC 31-14; or

(B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;

during the thirty (30) day period prescribed by subdivision (1) and fails to establish paternity in the paternity proceeding within a reasonable period determined under IC 31-14-21-9 through IC 31-14-21-11 or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action.

As added by P.L.200-1999, SEC.26.

IC 31-35-1-5

Sec. 5. The parents shall be notified of the hearing in accordance with IC 31-32-9.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-6

Sec. 6. (a) Except as provided in subsection (b), the parents must give their consent in open court unless the court makes findings of fact upon the record that:

(1) the parents gave their consent in writing before a person authorized by law to take acknowledgments;

(2) the parents were notified of their constitutional and other legal rights and of the consequences of their actions under section 12 of this chapter; and

(3) the parents failed to appear.

(b) The consent of a parent to the termination of the parent-child relationship under this chapter is not required if:

(1) consent to the termination of the parent-child relationship is implied under section 4.5 of this chapter, if the parent is the putative father; or

(2) the parent's consent to the adoption of the child would not be required under:

(A) IC 31-19-9-9; or

(B) IC 31-19-9-10.

As added by P.L.1-1997, SEC.18. Amended by P.L.200-1999, SEC.27.

IC 31-35-1-7

Sec. 7. (a) Before the court may enter a termination order, the court:

- (1) must inquire about the reasons for the parents' absence; and
- (2) may require an investigation by a probation officer to:
 - (A) determine whether there is any evidence of fraud or duress; and
 - (B) establish that the parents were competent to give their consent.

(b) An investigation conducted under subsection (a) must be entered on the record under oath by the person responsible for making the investigation.

(c) If there is any competent evidence of probative value that:

- (1) fraud or duress was present when the written consent was given; or
- (2) a parent was incompetent;

the court shall dismiss the petition or continue the proceeding.

(d) The court may issue any appropriate order for the care of the child pending the outcome of the case.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-8

Sec. 8. Before consent may be given in court, the court must advise the parents of:

- (1) their constitutional and other legal rights; and
- (2) the consequences of their actions under section 12 of this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-9

Sec. 9. (a) Except as provided in subsection (b), a parent who is incompetent may give consent to termination only with the approval of the court or of the parent's guardian.

(b) A person who is less than eighteen (18) years of age and who is a parent may give the person's consent without the approval of the court or of the parent's guardian if the person is competent except for the person's age.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-10

Sec. 10. (a) If:

- (1) the court determines that the allegations in the petition described in section 4 of this chapter are true; and
- (2) the other requirements of this article are met;

the court shall terminate the parent-child relationship.

(b) Except as provided in section 11 of this chapter, if the requirements of subsection (a)(1) or (a)(2) are not met, the court shall dismiss the petition.

As added by P.L.1-1997, SEC.18.

IC 31-35-1-11

Sec. 11. If the court makes findings of fact upon the record that:

(1) one (1) parent has made a valid consent to the termination of the parent-child relationship;
(2) the other parent:
(A) is required under this chapter to consent to the termination of the parent-child relationship;
(B) cannot be located, after a good faith effort has been made to do so, or has been located but fails to appear at the termination hearing; and
(C) has been served with notice of the hearing in the most effective means under the circumstances; and
(3) the investigation that may be required by section 7 of this chapter has been completed and entered on the record;
the court may enter a default judgment against the unavailable parent and terminate as to both parents.
As added by P.L.1-1997, SEC.18. Amended by P.L.200-1999, SEC.28.

IC 31-35-1-12

Sec. 12. For purposes of sections 6 and 8 of this chapter, the parents must be advised that:

- (1) their consent is permanent and cannot be revoked or set aside unless it was obtained by fraud or duress or unless the parent is incompetent;
- (2) when the court terminates the parent-child relationship:
 - (A) all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support pertaining to the relationship, are permanently terminated; and
 - (B) their consent to the child's adoption is not required;
- (3) the parents have a right to the:
 - (A) care;
 - (B) custody; and
 - (C) control;

of their child as long as the parents fulfill their parental obligations;

- (4) the parents have a right to a judicial determination of any alleged failure to fulfill their parental obligations in a proceeding to adjudicate their child a delinquent child or a child in need of services;

- (5) the parents have a right to assistance in fulfilling their parental obligations after a court has determined that the parents are not doing so;

- (6) proceedings to terminate the parent-child relationship against the will of the parents can be initiated only after:

- (A) the child has been adjudicated a delinquent child or a child in need of services and removed from their custody following the adjudication; or
- (B) a parent has been convicted and imprisoned for an offense listed in IC 31-35-3-4 (or has been convicted and imprisoned for an offense listed in IC 31-6-5-4.2(a) before its repeal), the child has been removed from the custody of the parents under a dispositional decree, and the child has been removed from

the custody of the parents for six (6) months under a court order;

(7) the parents are entitled to representation by counsel, provided by the state if necessary, throughout any proceedings to terminate the parent-child relationship against the will of the parents; and
(8) the parents will receive notice of the hearing at which the court will decide if their consent was voluntary, and the parents may appear at the hearing and allege that the consent was not voluntary.

As added by P.L.1-1997, SEC.18.

IC 31-35-2

Chapter 2. Termination of Parent-Child Relationship Involving a Delinquent Child or a Child in Need of Services

IC 31-35-2-1

Sec. 1. This chapter applies to the termination of the parent-child relationship involving:

- (1) a delinquent child; or
- (2) a child in need of services.

As added by P.L.1-1997, SEC.18.

IC 31-35-2-2

Sec. 2. Proceedings under this chapter are governed by the procedures prescribed by:

- (1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;
- (2) IC 31-34; and
- (3) IC 31-37;

but are distinct from proceedings under IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.18.

IC 31-35-2-3

Sec. 3. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition to terminate the parent-child relationship involving a delinquent child or a child in need of services under this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-2-4

Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

- (1) The attorney for the county office of family and children.
- (2) The prosecuting attorney.
- (3) The child's court appointed special advocate.
- (4) The child's guardian ad litem.

(b) The petition must:

- (1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)"; and

(2) allege that:

(A) one (1) of the following exists:

- (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
- (ii) a court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made; or
- (iii) after July 1, 1999, the child has been removed from the

parent and has been under the supervision of a county office of family and children for at least fifteen (15) months of the most recent twenty-two (22) months;

(B) there is a reasonable probability that:

(i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or

(ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;

(C) termination is in the best interests of the child; and

(D) there is a satisfactory plan for the care and treatment of the child.

(3) Indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.19; P.L.200-1999, SEC.29.

IC 31-35-2-4.5

Sec. 4.5. (a) This section applies if:

(1) a court has made a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification with respect to a child in need of services are not required; or

(2) a child in need of services:

(A) has been placed in:

(i) a foster family home, child caring institution, or group home licensed under IC 12-17.4; or

(ii) the home of a person related to the child (as defined in IC 12-7-2-162.5);

as directed by a court in a child in need of services proceeding under IC 31-34; and

(B) has been removed from a parent and has been under the supervision of a county office of family and children for not less than fifteen (15) months of the most recent twenty-two (22) months, excluding any period not exceeding sixty (60) days before the court has entered a finding and judgment under IC 31-34 that the child is a child in need of services.

(b) A person described in section 4(a) of this chapter shall:

(1) file a petition to terminate the parent-child relationship under section 4 of this chapter; and

(2) request that the petition be set for hearing.

(c) If a petition under subsection (b) is filed by the child's court appointed special advocate or guardian ad litem, the prosecuting attorney or the county office of family and children are entitled to be joined as a party to the petition upon application to the court.

(d) A party shall file a motion to dismiss the petition to terminate the parent-child relationship if any of the following circumstances apply:

(1) That the current case plan prepared by or under the supervision of the county office of family and children under

IC 31-34-15 has documented a compelling reason, based on facts and circumstances stated in the petition or motion, for concluding that filing, or proceeding to a final determination of, a petition to terminate the parent-child relationship is not in the best interests of the child. A compelling reason may include the fact that the child is being cared for by a custodian who is a parent, stepparent, grandparent, or responsible adult who is the child's sibling, aunt, or uncle or a relative who is caring for the child as a guardian.

(2) That:

- (A) IC 31-34-21-5.6 is not applicable to the child;
- (B) the county office of family and children has not provided family services to the child, parent, or family of the child in accordance with a currently effective case plan prepared under IC 31-34-15 or a permanency plan or dispositional decree approved under IC 31-34, for the purpose of permitting and facilitating safe return of the child to the child's home; and
- (C) the period for completion of the program of family services, as specified in the current case plan, permanency plan, or decree, has not expired.

(3) That:

- (A) IC 31-34-21-5.6 is not applicable to the child;
- (B) the county office of family and children has not provided family services to the child, parent, or family of the child, in accordance with applicable provisions of a currently effective case plan prepared under IC 31-34-15, or a permanency plan or dispositional decree approved under IC 31-34; and
- (C) the services that the county office of family and children has not provided are substantial and material in relation to implementation of a plan to permit safe return of the child to the child's home.

The motion to dismiss shall specify which of the allegations described in subdivisions (1) through (3) apply to the motion. If the court finds that any of the allegations described in subdivisions (1) through (3) are true, as established by a preponderance of the evidence, the court shall dismiss the petition to terminate the parent-child relationship.

As added by P.L.35-1998, SEC.20. Amended by P.L.200-1999, SEC.30.

IC 31-35-2-5

Sec. 5. Upon the filing of a petition under section 4 of this chapter:

- (1) the attorney for the county office of family and children; or
- (2) the prosecuting attorney;

shall represent the interests of the state in all subsequent proceedings on the petition.

As added by P.L.1-1997, SEC.18.

IC 31-35-2-6

Sec. 6. Except when a hearing is required after June 30, 1999, under section 4.5 of this chapter, the person filing the petition may request the court to set the petition for a hearing. Whenever a hearing is requested under this chapter, the court shall commence a hearing on the petition not more than ninety (90) days after a petition is filed under this

chapter.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.21.

IC 31-35-2-6.5

Sec. 6.5. (a) This section applies to hearings under this chapter relating to a child in need of services.

(b) At least ten (10) days before a hearing on a petition or motion under this chapter:

- (1) the person or entity who filed the petition to terminate the parent-child relationship under section 4 of this chapter; or
- (2) the person or entity who filed a motion to dismiss the petition to terminate the parent-child relationship under section 4.5(d) of this chapter;

shall send notice of the review to the persons listed in subsections (c) and (d).

(c) Except as provided in subsection (h), the following persons shall receive notice of a hearing on a petition or motion filed under this chapter:

- (1) The child's parent, guardian, or custodian.
- (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.
- (3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:
 - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office of family and children;
 - (B) the court having jurisdiction in the adoption case has determined under an applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or
 - (C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2, has been filed under IC 31-35 and is pending.
- (4) Any other person who:
 - (A) the county office of family and children has knowledge is currently providing care for the child; and
 - (B) is not required to be licensed under IC 12-17.2 or IC 12-17.4 to provide care for the child.
- (5) Any other suitable relative or person who the county office of family and children knows has had a significant or caretaking relationship to the child.

(6) Any other party to the child in need of services proceeding.

(d) At least ten (10) days before a hearing on a petition or motion under this chapter, the county office of family and children shall provide notice of the hearing to the child's foster parent by:

- (1) certified mail; or
- (2) face to face contact by the county office of family and children caseworker.

(e) The court shall provide to a person described in subsection (c)

or (d) an opportunity to be heard and make recommendations to the court at the hearing. The right to be heard and to make recommendations under this subsection includes the right of a person described in subsection (c) or (d) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsections (c) and (d), may be made a part of the court record.

(f) The court shall continue the hearing if, at the time of the hearing, the county office of family and children has not provided the court with signed verification from the foster parent, as obtained through subsection (d), that the foster parent has been notified of the hearing at least five (5) business days before the hearing. However, the court is not required to continue the hearing if the child's foster parent appears for the hearing.

(g) A person described in subsection (c)(2) through (c)(4) or subsection (d) does not become a party to a proceeding under this chapter as the result of the person's right to notice and the opportunity to be heard under this section.

(h) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c), the parent is not required to be notified of a hearing described in subsection (c).

As added by P.L.35-1998, SEC.22. Amended by P.L.200-1999, SEC.31; P.L.133-2000, SEC.9; P.L.217-2001, SEC.12.

IC 31-35-2-7

Sec. 7. (a) If a parent objects to the termination of the parent-child relationship, the court shall appoint:

- (1) a guardian ad litem;
- (2) a court appointed special advocate; or
- (3) both;

for the child.

(b) If a guardian ad litem or court appointed special advocate has been appointed for the child under IC 31-34-10, the court may reappoint the guardian ad litem or court appointed special advocate to represent and protect the best interests of the child in the termination proceedings.

As added by P.L.1-1997, SEC.18.

IC 31-35-2-8

Sec. 8. (a) Except as provided in section 4.5(d) of this chapter, if the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.23.

IC 31-35-3

Chapter 3. Termination of Parent-Child Relationship With Individual Convicted of Criminal Offense

IC 31-35-3-1

Sec. 1. This chapter applies to the termination of the parent-child relationship between an individual convicted of an offense listed in section 4(1) of this chapter and a child described in section 4(2) of this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-2

Sec. 2. Proceedings under this chapter are governed by the procedures prescribed by:

- (1) IC 31-32-1, IC 31-32-4 through IC 31-32-10, and IC 31-32-12 through IC 31-32-15;
- (2) IC 31-34; and
- (3) IC 31-37;

but are distinct from proceedings under IC 31-34 and IC 31-37.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-3

Sec. 3. The probate court has concurrent original jurisdiction with the juvenile court in proceedings on a petition to terminate the parent-child relationship under this chapter.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-4

Sec. 4. If:

- (1) an individual is convicted of the offense of:
 - (A) murder (IC 35-42-1-1);
 - (B) causing suicide (IC 35-42-1-2);
 - (C) voluntary manslaughter (IC 35-42-1-3);
 - (D) involuntary manslaughter (IC 35-42-1-4);
 - (E) rape (IC 35-42-4-1);
 - (F) criminal deviate conduct (IC 35-42-4-2);
 - (G) child molesting (IC 35-42-4-3);
 - (H) child exploitation (IC 35-42-4-4);
 - (I) sexual misconduct with a minor (IC 35-42-4-9); or
 - (J) incest (IC 35-46-1-3); and
- (2) the victim of the offense:
 - (A) was less than sixteen (16) years of age at the time of the offense; and
 - (B) is:
 - (i) the individual's biological or adoptive child; or
 - (ii) the child of a spouse of the individual who has committed the offense;

the prosecuting attorney, the attorney for the county office of family and children, the child's guardian ad litem, or the court appointed special advocate may file a petition with the juvenile or probate court to terminate the parent-child relationship of the individual who has

committed the offense with the victim of the offense, the victim's siblings, or any biological or adoptive child of that individual.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-5

Sec. 5. The verified petition filed under section 4 of this chapter must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the parent (or parents)"; and

(2) allege that:

(A) the victim of an offense listed in section 4(1) of this chapter is:

- (i) the subject of the petition;
- (ii) the biological or adoptive sibling of the subject of the petition; or
- (iii) the child of a spouse of the individual whose parent-child relationship is sought to be terminated under this article;

(B) the individual whose parent-child relationship is sought to be terminated under this article was convicted;

(C) the child has been removed:

- (i) from the parent under a dispositional decree; and
- (ii) from the parent's custody for at least six (6) months under a court order;

(D) there is a reasonable probability that:

- (i) the conditions that resulted in the child's removal or the reasons for placement outside the parent's home will not be remedied; or
- (ii) continuation of the parent-child relationship poses a threat to the well-being of the child;

(E) termination is in the best interests of the child; and

(F) there is a satisfactory plan for the care and treatment of the child.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-6

Sec. 6. (a) The person filing the petition shall represent the interests of the state in all subsequent proceedings on the petition.

(b) Upon the filing of a petition under section 4 of this chapter, the attorney for the county office of family and children or the prosecuting attorney shall represent the interests of the state in all subsequent proceedings.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-7

Sec. 7. (a) The person filing the petition may request that the court set the petition for a hearing.

(b) Whenever a hearing on the petition is requested under this chapter, the court shall commence the hearing not more than ninety (90) days after a petition is filed under this chapter.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.24.

IC 31-35-3-8

Sec. 8. A showing that an individual has been convicted of an offense described in section 4(1) of this chapter is prima facie evidence that there is a reasonable probability that:

- (1) the conditions that resulted in the removal of the child from the parent under a court order will not be remedied; or
- (2) continuation of the parent-child relationship poses a threat to the well-being of the child.

As added by P.L.1-1997, SEC.18.

IC 31-35-3-9

Sec. 9. (a) If the court finds that the allegations in a petition described in section 4 of this chapter are true, the court shall terminate the parent-child relationship.

(b) If the court does not find that the allegations in the petition are true, the court shall dismiss the petition.

As added by P.L.1-1997, SEC.18.

IC 31-35-4

Chapter 4. Child Videotape Testimony

IC 31-35-4-1

Sec. 1. This chapter applies to an action initiated to terminate a parent-child relationship under:

- (1) IC 31-35-2; or
- (2) IC 31-35-3.

As added by P.L.1-1997, SEC.18.

IC 31-35-4-2

Sec. 2. A statement or videotape that:

- (1) is made by a child who at the time of the statement or videotape:

- (A) is less than fourteen (14) years of age; or
- (B) is at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

- (i) is likely to continue indefinitely;
- (ii) constitutes a substantial disability to the child's ability to function normally in society; and
- (iii) reflects the child's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

- (2) concerns an act that is a material element in determining whether a parent-child relationship should be terminated; and
- (3) is not otherwise admissible in evidence under statute or court rule;

is admissible in evidence in an action described in section 1 of this chapter if the requirements of section 3 of this chapter are met.

As added by P.L.1-1997, SEC.18.

IC 31-35-4-3

Sec. 3. A statement or videotape described in section 2 of this chapter is admissible in evidence in an action to determine whether the parent-child relationship should be terminated if, after notice to the parties of a hearing and of their right to be present:

- (1) the court finds that the time, content, and circumstances of the statement or videotape and any other evidence provide sufficient indications of reliability; and

- (2) the child:

- (A) testifies at the proceeding to determine whether the parent-child relationship should be terminated;
- (B) was available for face-to-face cross-examination when the statement or videotape was made; or
- (C) is found by the court to be unavailable as a witness because:

- (i) a psychiatrist, physician, or psychologist has certified that the child's participation in the proceeding creates a

substantial likelihood of emotional or mental harm to the child;

(ii) a physician has certified that the child cannot participate in the proceeding for medical reasons; or

(iii) the court has determined that the child is incapable of understanding the nature and obligation of an oath.

As added by P.L.1-1997, SEC.18.

IC 31-35-4-4

Sec. 4. A statement or videotape may not be admitted in evidence under this chapter unless the prosecuting attorney or the attorney for the county office of family and children informs the parties of:

(1) an intention to introduce the statement or videotape in evidence; and

(2) the content of the statement or videotape;

at least twenty (20) days before the proceedings to give the parties a fair opportunity to prepare a response to the statement or videotape before the proceeding.

As added by P.L.1-1997, SEC.18.

IC 31-35-5

Chapter 5. Child Testimony by Closed Circuit Television

IC 31-35-5-1

Sec. 1. This chapter applies to an action to determine whether to terminate a parent-child relationship under:

- (1) IC 31-35-2; or
- (2) IC 31-35-3.

As added by P.L.1-1997, SEC.18.

IC 31-35-5-2

Sec. 2. On the motion of the prosecuting attorney or the attorney for the county office of family and children, the court may order that:

- (1) the testimony of a child be taken in a room other than the courtroom and be transmitted to the courtroom by closed circuit television; and
- (2) the questioning of the child by the parties be transmitted to the child by closed circuit television.

As added by P.L.1-1997, SEC.18.

IC 31-35-5-3

Sec. 3. On the motion of the prosecuting attorney or the attorney for the county office of family and children, the court may order that the testimony of a child be videotaped for use at proceedings to determine whether the parent-child relationship should be terminated.

As added by P.L.1-1997, SEC.18.

IC 31-35-5-4

Sec. 4. The court may not make an order under section 2 or 3 of this chapter unless:

- (1) the testimony to be taken is the testimony of a child who at the time of the trial is:

- (A) less than fourteen (14) years of age; or
- (B) at least fourteen (14) years of age but less than eighteen (18) years of age and has a disability attributable to an impairment of general intellectual functioning or adaptive behavior that:

- (i) is likely to continue indefinitely;
- (ii) constitutes a substantial impairment of the child's ability to function normally in society; and
- (iii) reflects the child's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and

- (C) found by the court to be a child who should be permitted to testify outside the courtroom because:

- (i) a psychiatrist, physician, or psychologist has certified that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;
- (ii) a physician has certified that the child cannot be present in the courtroom for medical reasons; or

(iii) evidence has been introduced concerning the effect of the child's testifying in the courtroom and the court finds that it is more likely than not that the child's testifying in the courtroom creates a substantial likelihood of emotional or mental harm to the child;

(2) the prosecuting attorney or the attorney for the county office of family and children has informed the parties and their attorneys by written notice of the intention to have the child testify outside the courtroom; and

(3) the prosecuting attorney or the attorney for the county office of family and children informed the parties and their attorneys under subdivision (2) at least twenty (20) days before the proceedings to give the parties and their attorneys a fair opportunity to prepare a response before the proceedings to the motion of the prosecuting attorney or the motion of the attorney for the county office of family and children to permit the child to testify outside the courtroom.

As added by P.L.1-1997, SEC.18.

IC 31-35-5-5

Sec. 5. If the court makes an order under section 2 of this chapter, only the following persons may be in the same room as the child during the child's testimony:

(1) Persons necessary to operate the closed circuit television equipment.

(2) Persons whose presence the court finds will contribute to the child's well-being.

(3) A court bailiff or court representative.

As added by P.L.1-1997, SEC.18.

IC 31-35-5-6

Sec. 6. If the court makes an order under section 3 of this chapter, only the following persons may be in the same room as the child during the child's videotaped testimony:

(1) The judge.

(2) The prosecuting attorney or the attorney for the county office of family and children.

(3) The attorney for each party.

(4) Persons necessary to operate the electronic equipment.

(5) The court reporter.

(6) Persons whose presence the court finds will contribute to the child's well-being.

(7) The parties, who can observe and hear the testimony of the child without the child being able to observe or hear the parties.

However, if a party is not represented by an attorney, the party may question the child.

As added by P.L.1-1997, SEC.18.

IC 31-35-5-7

IC 31-35-5-7 Sec. 7. If the court makes an order under section 2 or 3 of

this chapter, only the following persons may question the child:

- (1) The prosecuting attorney or the attorney for the county office of family and children.
- (2) The attorneys for the parties.
- (3) The judge.

As added by P.L.1-1997, SEC.18.

IC 31-35-6

Chapter 6. Effect of Termination of the Parent-Child Relationship

IC 31-35-6-1

Sec. 1. (a) If the juvenile or probate court terminates the parent-child relationship, the court may:

- (1) refer the matter to the court having probate jurisdiction for adoption proceedings; or
- (2) order any dispositional alternative specified by IC 31-34-20-1 or IC 31-37-19-1.

(b) If the juvenile court refers the matter to the court having probate jurisdiction under subsection (a)(1), the juvenile court shall review the child's case once every six (6) months until a petition for adoption is filed.

As added by P.L.1-1997, SEC.18. Amended by P.L.35-1998, SEC.25.

IC 31-35-6-2

Sec. 2. If the juvenile or probate court terminates the parent-child relationship and refers the matter to the court having probate jurisdiction for adoption proceedings, the guardian ad litem or court appointed special advocate shall do the following:

- (1) Provide the county department with information regarding the best interests of the child.
- (2) Review the adoption plan as prepared by the county department as to the best interests of the child.
- (3) Report to the court with juvenile jurisdiction and, if requested, to the court having probate jurisdiction, regarding the plan and the plan's appropriateness in relationship to the best interests of the child.

As added by P.L.1-1997, SEC.18.

IC 31-35-6-3

Sec. 3. An appeal of a court's decision regarding the termination of the parent-child relationship does not prevent the court in the court's discretion from referring the matter for adoption proceedings while the appeal is pending.

As added by P.L.1-1997, SEC.18.

IC 31-35-6-4

Sec. 4. (a) If the juvenile or probate court terminates the parent-child relationship:

- (1) all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support, pertaining to the relationship, are permanently terminated; and
- (2) the parent's consent to the child's adoption is not required.

(b) Any support obligations that accrued before the termination are not affected. However, the support payments shall be made under the juvenile or probate court's order.

As added by P.L.1-1997, SEC.18.